

SENATE BILL 2148  
By Burchett

AN ACT to amend Tennessee Code Annotated, Title 47,  
Chapter 18, relative to consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-109(a), is amended by  
deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Any person who suffers an ascertainable loss of money or property, real, personal, or mixed, or any other article, commodity, or thing of value wherever situated, as a result of the use or employment by another person of an unfair or deceptive act or practice declared to be unlawful by this part, may bring an action individually to recover actual damages. Each such person seeking to recover damages for an unfair or deceptive act or practice declared to be unlawful by this part shall be required to prove that the deceptive act or practice caused such person to enter into the transaction that resulted in such person's her damages. Proof of a violation of this part shall not support an award of damages without proof that the person seeking damages suffered an actual out-of-pocket loss. The term "out-of-pocket loss" means an amount of money equal to the difference between the amount paid by the consumer for the good or service and the actual market value of the good or service that the consumer actually received. The actual market value of the good or service that the consumer actually received shall be the market price of the good or service that is most nearly comparable to what the plaintiff actually received, if evidence of a comparable good or service is presented, with appropriate adjustments to reflect differences between the comparable good or service and the good or service actually received. Any party to an action for damages under this section shall have the right to demand a jury trial.

SECTION 2. This act shall take effect July 1, 2005, the public welfare requiring it, and shall apply to all cases filed on or after the effective date of this act.